



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

OCT 28 2014

Elliott S. Berke, Esq.  
Berke Farah LLP  
2101 L Street NW, Suite 1000  
Washington, D.C. 20037

RE: MUR 6837  
Grant Lally for Congress and Christopher  
Nolan in his official capacity as treasurer

Dear Mr. Berke:

On June 10, 2014, the Federal Election Commission notified your clients, Grant Lally for Congress and Christopher Nolan in his official capacity as treasurer ("Committee"), of a complaint alleging a violation of the Federal Election Campaign Act of 1971, as amended. On October 23, 2014, the Commission found, on the basis of the information in the complaint, and information provided by your clients, that there is no reason to believe the Committee violated 52 U.S.C. § 30124 (formerly 2 U.S.C. § 441h). Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). The Factual and Legal Analysis, which explains the Commission's finding, is enclosed for your information.

If you have any questions, please contact Delbert K. Rigsby, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink that reads "Mark Allen".

Mark Allen  
Acting Assistant General Counsel

Enclosure  
Factual and Legal Analysis

1-2014-10-28-14

**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

**RESPONDENTS:** Grant Lally for Congress and Christopher Nolan  
in his official capacity as treasurer

**MUR: 6837**

**I. INTRODUCTION**

This matter was generated by a complaint filed with the Federal Election Commission by Jesse Bohman, Campaign Manager for the Committee to Elect Stephen A. Labate, Inc. Complainant alleges that Grant Lally for Congress ("Committee") violated 11 C.F.R. § 110.16 by soliciting funds based on a fraudulent representation that Nassau County Executive Ed Mangano had endorsed Grant Lally in the Republican primary election in the Third Congressional District of New York. Because Mangano is not a federal candidate, the prohibition on fraudulent representation does not apply here.

**II. ANALYSIS**

The Act and Commission regulations prohibit any person from fraudulently representing the person as speaking for or on behalf of any candidate or political party or employee or agent thereof for the purpose of soliciting contributions or donations. 52 U.S.C. § 30124(b)(1) (formerly 2 U.S.C. § 441h(b)(1)); 11 C.F.R. § 110.16(b)(1). The Act and the regulations also prohibit candidates and their employees or agents from fraudulently misrepresenting themselves, or any other organization under the candidate's control, as speaking or otherwise acting on behalf of any other candidate or political party on a matter which is damaging to such other candidate or party. 52 U.S.C. § 30124(a)(1) (formerly 2 U.S.C. § 441h(a)(1)); 11 C.F.R. § 110.16(a)(1).

These provisions apply to a person fraudulently misrepresenting that such person is speaking on behalf of a *federal* candidate.<sup>1</sup> Additionally, the term "candidate" means "an individual who seeks nomination for election, or election, to *Federal* office."<sup>2</sup> Mangano is a local elected official and is not a federal candidate, and thus neither provision of section 30124 (formerly section 441h) applies to the Committee's conduct, even if the allegations are true.

Accordingly, the Commission found no reason to believe that Grant Lally for Congress and Christopher Nolan in his official capacity as treasurer violated 52 U.S.C. § 30124 (formerly 2 U.S.C. § 441h).

<sup>1</sup> See Explanation and Justification for 11 C.F.R. § 110.16, Disclaimers, Fraudulent Solicitation, Civil Penalties, and Personal Use of Campaign Funds, 67 Fed. Reg. 76,962, 76,968 (Dec. 13, 2002) (noting that section 30124(b) (formerly section 441h(b)) "prohibits a person from fraudulently misrepresenting that the person is speaking, writing or otherwise acting for, or on behalf of, a *Federal* candidate or political party, or an employee or agent of either, for the purpose of soliciting contributions or donations." (emphasis added)).

<sup>2</sup> 52 U.S.C. § 30101(2) (formerly 2 U.S.C. § 431(2)) (emphasis added).